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CHARLES ELMORE CROPLEY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1945

No. 188

WILLIAM ELBERT LAWRENCE
Petitioner

Against

THE PEOPLE OF THE STATE OF ILLINOIS
Respondent

PETITION FOR REHEARING

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To the Honorable the Chief Justice of the United States Supreme Court and the Associate Justices of the Supreme Court of the United States:

Your petitioner, William Elbert Lawrence, respectfully represents as follows:

On October 8th, 1945, the United States Supreme Court entered an order herein in and by which Certiorari was denied to your petitioner. Your petitioner respectfully petitions this court for a Rehearing in that regard and shows:

1. The court overlooked the decision by the Illinois Supreme Court *People v. Livermore*, 390 Illinois 85 (pp. 96-102) in that the court there condemned any procedure that "blackens the character of the defendant before starting on an investigation of the crime with which he is charged". The indictment in the case at bar does blacken the character of the defendant in exactly that way and makes a fair and impartial trial impossible. What the court condemned in the Livermore case is approved in the case at bar. This is an obvious contradiction.

2. The court overlooked the legal effect of the decision *Tot v. United States*, 319 U. S. 463, 466, 470, in that the procedure that blackens the character of a defendant before starting upon the investigation of the crime with which he is charged is a direct violation of the canons of decency and fairness which express the notions of justice of the English speaking people toward those charged with crime. The allegations in regard to a prior conviction are no part of the main case on trial.

3. The court overlooked the contention that the Illinois Habitual Act is a Bill of Attainder and void under the United States Constitution.

4. The court overlooked the contention that the Act requires an indictment to set forth the previous

conviction and judgment and thereby makes a fair trial impossible. This is therefore a violation of the fair play guaranteed by the United States constitution.

5. The court overlooked the contention that the Act is a "Law that condemns all the individuals of a class to harsh measures without a hearing." It therefore "lacks the first principle of due process of law".

It is believed that a holding to the effect that the Illinois Act is unconstitutional would in no wise endanger society. In the case of *People v. Montana* the Illinois Supreme Court (380 Ill. 596) held the then current Sentence and Parole Law to be unconstitutional and that decision affected some 1,500 prisoners who were held under that act. Of that total about one thousand of the prisoners have been remanded for proper sentences by the Illinois Supreme Court and about one-fourth of these prisoners have been given probation. At the last term of the Illinois Supreme Court, as we are advised, almost one hundred of these cases were remanded for sentence.

The Act at bar involves about four hundred prisoners and would probably work out in much the same way.

Dated, October 15th, 1945.

Respectfully submitted,

WILLIAM ELBERT LAWRENCE, *Petitioner,*
(By) THOMAS MARSHALL, *Counsel for Petitioner.*

CERTIFICATE OF COUNSEL

Thomas Marshall, Counsel for Petitioner, William Elbert Lawrence hereby certifies that the above and foregoing Petition for Rehearing is presented in good faith and not for delay.

THOMAS MARSHALL,
Counsel for Petitioner.